IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Civil Revision No. 6360 of 2005
Date of Decision: August 29, 2006

Raj Kumar .....Petitioner

versus

Parkash and others .....Respondents

Present:- Shri Rajneesh Gupta, Advocate, for the petitioner

Shri Rakesh Nagpal, Advocate, for respondents No.1 to 6.

HEMANT GUPTA, J.

The challenge in the present revision petition is to the order passed by the learned trial Court on 26.10.2005 whereby an application filed by the petitioner for amendment of the plaint so as to correct the alleged mistakes in the plaint was declined.

The petitioner has filed a suit for possession and for permanent injunction in respect of three different municipal numbers with regard to one Chabutra. According to the petitioner, municipal numbers 11/3, 11A/3 and 11B/3 were granted but MCK No.11B/3 could not mentioned in the plaint inadvertently. It has further been pointed out that while giving the boundaries of the Chabutra, correct name of the occupier could not be mentioned towards northern and southern side.

The said application has been dismissed by the learned trial court on the ground that negligent and careless mistakes in the plaint cannot

be permitted to be corrected.

I am of the opinion that the order passed by the learned trial Court declining amendment suffers from patent illegality and material irregularity. It is the case of the petitioner that inadvertently MCK No. 11B/3 could not be mentioned though the said property is part of the suit property. Still further, the petitioner wants to correct the name of the occupier and correct the boundaries.

Since the plaintiff has sought amendment in the plaint on account of mistakes, I do not find that there is any justification for declining the same. The law of procedure cannot be unruly horse to even deny the legitimate mistake to be corrected. It shall be open to the defendant to raise any plea which may be available in law to defeat the claim of the plaintiff but the plaintiff cannot be denied even the right to amend the plaint so as to correct the municipal number and name of the occupier of the Chabutra.

Consequently, the revision petition is allowed and the impugned order passed by the learned trial Court is set aside. The petitioner is permitted to amend the plaint as sought for.

August 29, 2006 (HEMANT GUPTA)
ks JUDGE